



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,864	11/19/2001	Jacques Agostini	33900-91	9200

7590 12/03/2003

Martin B. Pavane, Esq.  
Cohen, Pontani, Lieberman & Pavane  
Suite 1210  
551 Fifth Avenue  
New York, NY 10176

EXAMINER

GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
----------	--------------

3679

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/988,864

licant(s)

AGOSTINI, JACQUES

Examiner

Ernesto Garcia

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9, 10 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of species I (the ring 4 including a throat; claim 12) in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 11 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

### *Claim Objections*

Claim 9, 13 and 15 are objected to because of the following informalities:

regarding claim 9, the preamble makes unclear whether applicant is claiming the joint in combination with the cable passing through the guiding tube in the wall, the limitation --and being-- should be inserted after "nut" in line 10 since the nut is not in contact with the spherical wall, the limitation "ends" in line 12 should be singular. For purposes of examination, the claims were examined not in combination as recited

above. If applicant is claiming the combination, the language in the preamble should be in the body of the claim;

regarding claim 13, the limitation "the" in line 4 should be --a--; and,

regarding claim 15, the preamble of claim 13 suggest that the joint is intended to support a ball-bearing control cable and therefore the ball-bearing control cable is not claimed; however, claim 15 positively recites the ball-bearing control cable passing through the wall. Therefore, it is unclear whether the joint is claimed in combination with the control cable passing through the wall. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9, 10 and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Frye, 6,109,132.

Regarding claim 9, Frye discloses in Figure 7 a joint comprising a nut **130**, a wall **124**, a ring **144**, and a lock-nut **138**. The nut **130** is disposed on a first side **134** of the wall **124** and the nut **130** has a threaded sleeve **132** extending from the nut **130**. The nut **130** has an axial cavity **142** with at least one spherical wall **140** opening outward in a divergent bore **142** inside the threaded sleeve **132**. The ring **144** is formed in a shape of a portion of a ball and disposed in the axial cavity **142**. The ring **144** is in contact with the spherical wall **140**.

Applicant is reminded that the threaded sleeve **132** is configured to pass through the wall **124**. The ring **144** is configured to received one end of each of two sections of a guiding tube. Furthermore, applicant is reminded that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Regarding claims 10 and 14, applicant is reminded that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Regarding claim 12, the ring **144** includes a throat **154B** having a stop **156**.

Regarding claim 13, Frye discloses in Figure 6 (see marked-up attachment) the axial cavity **142** includes two lateral notches **A11** disposed diametrically opposite to each other. The notches **A11** have an annular length **A12** greater than a width **A13** of the ring **144**.

Claims 9 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson, 4,243,192 (see marked-up attachment).

Regarding claim 9, Johnson discloses in Figure 2 a joint comprising a nut **32**, a wall **14**, a ring **18**, and a lock-nut **46**. The nut **32** is disposed on a first side **42** of the wall **14** and the nut **32** has a threaded sleeve **44** extending from the nut **32**. The nut **32** has an axial cavity **A5** with at least one spherical wall **40** opening outward in a divergent bore **A8** inside the threaded sleeve **44**. The ring **18** is formed in a shape of a portion of a ball and disposed in the axial cavity **A5**. The ring **18** is in contact with the spherical wall **40**.

Applicant is reminded that the threaded sleeve **44** is configured to pass through the wall **14**. The ring **18** is configured to received one end of each of two sections of a guiding tube. Furthermore, applicant is reminded that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Regarding claim 16, the axial cavity **A5** and the divergent bore **A8** each include a beveled outer lateral edges **38**.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frye, 6,109,132 in view of Witte et al., 4,381,163.

Regarding claim 15, Frye, as discussed above, fails to disclose the nut **130** including an annular shoulder having a face abutting the wall. Witte et al. disclose a nut **1** including an annular shoulder **11** having a face **13** abutting a wall **27**. Witte et al. does not explicitly state the purpose of the annular shoulder, however, it is known in the art of fasteners to include an annular shoulder to act as a washer so that the nut does not become loosen. Therefore, as taught by Witte et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to include an annular shoulder in the nut so that the nut does not become loosen.

***Response to Arguments***

Applicant's arguments with respect to claims 1-4 and 6-8 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

  
**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Technology Center 3600**

E.G.

November 24, 2003

Attachments: one marked-up copy of Frye, 6,109,132; and  
one marked-up copy of Johnson, 4,243,192.

U.S. Patent

Aug. 29, 2000

Sheet 5 of 11

6,109,132

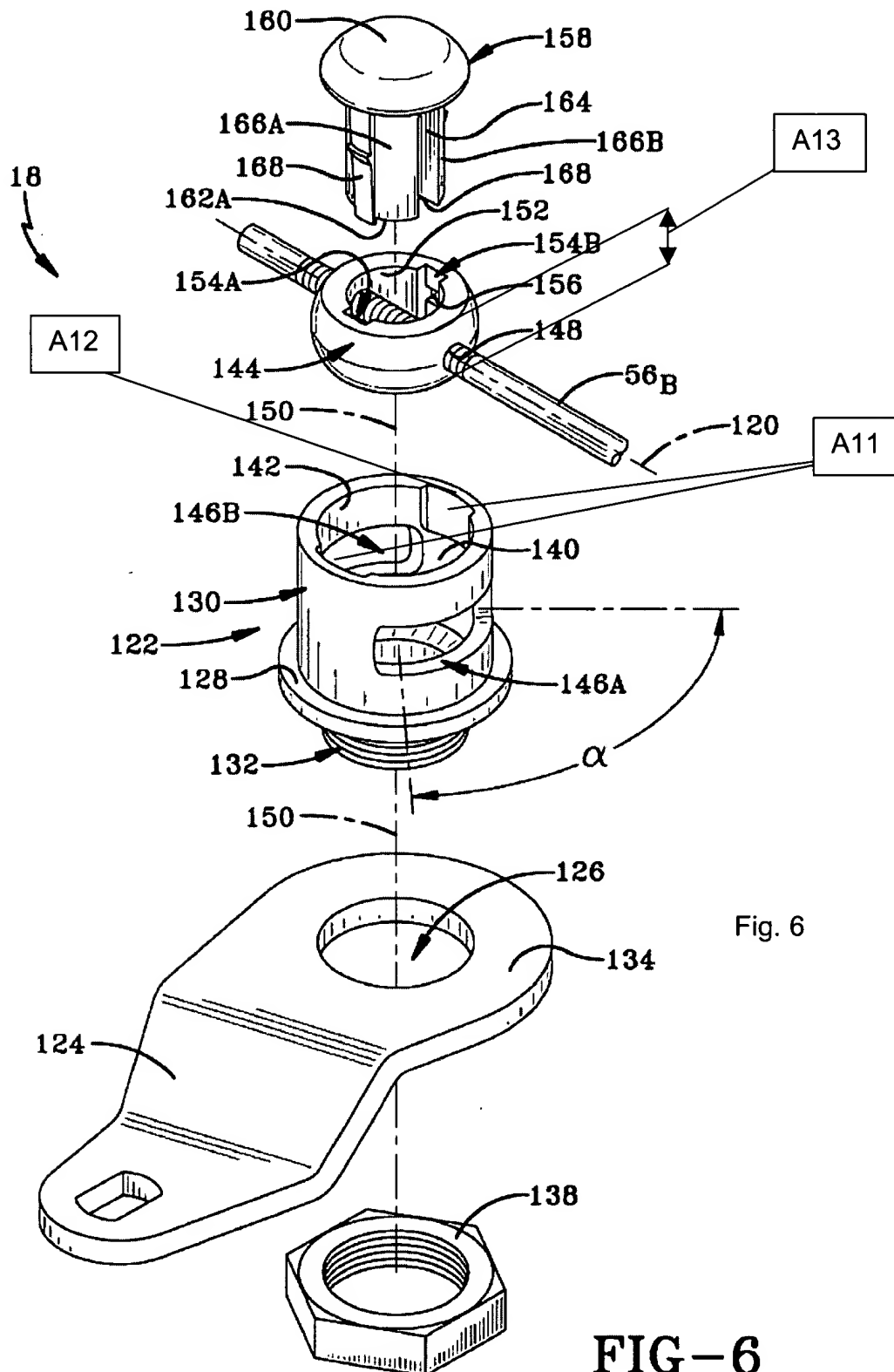


Fig. 6

FIG-6

Art Unit: 3679

5,372,373

